



Hugh Henry MSP  
The Scottish Parliament  
EH99 1SP

Chief Executive's Office  
1A Parliament Square  
Edinburgh  
EH1 1RF

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DX 549306  
LP1 Edinburgh 10

Dear Mr Henry

**SCOTTISH PARLIAMENTARY QUESTIONS S3W-38322, S3W-38324, S3W-38325, S3W-38326 and S3W-38331 – FIXED PENALTIES**

The Cabinet Secretary in his response to the above PQs indicated that they related to operational matters being the responsibility of the Scottish Court Service corporate body. I am now writing to you regarding the matters you have raised.

The first PQ (**S3W-38322**) asks *whether Justices of the Peace have been instructed not to put people subject to a fixed penalty notice on supervised attendance orders.* The sentence imposed in any case is a matter for the bench. No instructions on sentencing are issued to members of the judiciary by Scottish Court Service. Legal advisors will advise Justices of the Peace that the imposition of a supervised attendance order may not be competent in such circumstances.

The second PQ **S3W-38324** asks *whether a Justice of the Peace, when presiding in a fines court, is given information relating to the reason for the issue of a fixed penalty notice.*

The documentation placed before the Justice of the Peace lists the charge, date and location of the offence of the fixed penalty notice.

**S3W-38325** asks *what disposal is available to a Justice of the Peace when a person appearing for non-payment of a fixed penalty notice is unable to pay.*

If the court is satisfied that the person is unable to pay and that recovery in terms of an enforcement order or civil diligence is not appropriate, the court has the power to remit or modify the penalty or alternatively to defer payment to allow a review of the offenders' circumstances at a later date.

**S3W-38326** asks *what action is taken when a person fails to pay an outstanding fine despite being instructed to do so by a Justice of the Peace.*

The Fines Enforcement Officer will decide on the most appropriate intervention taking account of the overall circumstances of each person. The normal enforcement process is as follows:

- issue of a warning letter when payment falls into arrears;
- telephone enforcement (allowing direct contact with the offender to discuss arrears and proposals for payment);
- deployment of sanctions (including applying for benefit deductions, earnings arrestments, arrestment of bank funds and vehicle seizures);
- referral to court if arrears are not addressed.

**S3W-38331** asks *what action is taken when a person fails to pay a Fiscal Fine.*

The normal process for enforcement of such penalties is as follows:

- issue of a warning letter when payment falls into arrears;
- issue of an enforcement order if arrears persist;
- telephone enforcement (allowing direct contact with the offender to discuss arrears and proposals for payment);
- deployment of sanctions (including applying for benefit deductions, earnings arrestments, arrestment of bank funds and vehicle seizures);
- referral to court if arrears are not addressed.

I hope these responses are helpful.

Yours sincerely



Eleanor Emberson  
Chief Executive  
0131 444 3301  
[eemberson@scotcourts.gov.uk](mailto:eemberson@scotcourts.gov.uk)